

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
William Walsh,

Plaintiff,

v.

ARS National Services, Inc.,

Defendant.
-----X

FILED
U.S. DISTRICT COURT
2012 OCT 31 PM 3:25

S.D. OF N.Y.

Civil Action No.: _____

12 3 3011

**COMPLAINT AND DEMAND
FOR TRIAL BY JURY**

JUDGE SEIBEL

Plaintiff William Walsh ("Plaintiff" or "Walsh"), by and through his attorneys,
FREDRICK SCHULMAN & ASSOCIATES, Attorneys at Law, as and for his Complaint against
the Defendant ARS National Services, Inc. ("Defendant" or "ARS"), respectfully sets forth,
complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from
the Defendant's violation(s) of Sec. 1692 et. seq. of Title 15 of the United States Code,
commonly referred to as the Fair Debt Collection Practices Act ("FDCPA").

PARTIES

2. Plaintiff is a resident of the State of NY, County of Rockland, residing at 39 Sand Street,
Garnerville, NY 10923.

3. Defendant is a collection firm with a principal place of business at 201 W Grand Ave, Escondido, CA 92025, and, upon information and belief, is authorized to do business in the State of New York.

4. ARS is a “debt collector” as the phrase is defined and used in the FDCPA.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 U.S.C. Sec. 1331, as well as 15 U.S.C. Sec. 1692 et. seq. and 28 U.S.C. Sec. 2201. If applicable, the Court also has pendent jurisdiction over the State law claims in this action pursuant to 28 U.S.C. Sec. 1367(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. Sec. 1391(b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “6” herein with the same force and effect as if the same were set forth at length herein.

8. Upon information and belief, on a date better known to the Defendant, the Defendant began collection activities on an alleged consumer debt from the Plaintiff (“Alleged Debt”).

9. In or about June 2012, Plaintiff and Defendant had their oral communication with respect to the Alleged Debt. In that communication, Defendant failed to state that it was a debt collector, attempting to collect a debt and that any information obtained would be used for that purpose (See transcript, attached hereto as “Exhibit A”).

10. Said failure on the part of the Defendant is a violation of the FDCPA, 15 U.S.C. Sec. 1692e(11).

11. As a result of the Defendant's deceptive, misleading and/or unfair debt collection practices, the Plaintiff has been damaged.

FIRST CAUSE OF ACTION

(Violations of the FDCPA)

12. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "11" herein with the same force and effect as if the same were set forth at length herein.

13. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violate various provisions of the FDCPA, including but not limited to 15 U.S.C. Sec. 1692e(11).

14. As a result of the Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

15. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues in this complaint to which the Plaintiff is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff William Walsh demands judgment against the Defendant ARS National Services, Inc. as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. Sec. 1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 U.S.C. Sec.1692k(2)(A);
- C. For attorneys' fees and costs provided and pursuant to 15 U.S.C. Sec. 1692k(a)(3);

- D. For a declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
October 18, 2012

Respectfully submitted,

By: 

Aryeh L. Pomerantz, Esq.

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Attorneys for Plaintiff

Exhibit A - transcript

[Ringing]

Thank you for calling ARS. This call maybe monitored or recorded for quality assurance. If you know your parties extension you may dial it now otherwise stay on the line for operator assistance. [Pause] Please hold while your call is transferred. This call maybe monitored or recorded for quality assurance.

[Ringing]

Collector: Good morning ARS.

Caller: Hello?

Collector: I'm sorry?

Caller: Hello?

Collector: Hello?

Caller: I'm calling about my account. I received some letter from your company.

Collector: Ok are you looking at the letter?

Caller: Yes I have the letter.

Collector: Ok on that letter there will be an ARS account number it will start with a 2

Caller: 2 I see account number 4 2

Collector: Well it should be above that. It's not the long one it's like a nine digit, eight digit.

Caller: 824245 70758

Collector: And your name?

Caller: William.

Collector: William?

Caller: Walsh.

Collector: Alright and can you verify your last four digits of your social?

Caller: Yes it's 7673

Collector: Ok sir what can I do for you?

Caller: Ok I was just wondering it says I owe \$4000

Collector: Yes.

Caller: What's this account I don't remember.

Collector: Um this is your Chase Visa

Caller: Yes.

Collector: Yes.

Caller: And the balance is how much and I give you \$750 every month.

Collector: Do you give us?

Caller: No I got some of the letter. It says settlement for \$750 every month for three times and that's going to be the total balance. Paid in full.

Collector: Yes that's the settlement on that. Um just to cover things and keep a mind on that um whenever you settle out an account Chase may provide you with a \$10.99 fee. Um they will also update the credit reports that you satisfied the debt and at the end of the settlement we'll provide you with a letter that you satisfied it and owe nothing.

Caller: Ok so I pay three times \$750 and its pay in full.

Collector: Yup that's the pay off.

Caller: [Talking over each other] send me \$10.99

Collector: Chase may provide you with it next year tax season.

Caller: For next year?

Collector: Yes sir.

Caller: Ok so I will be taking care of this in the next few days.

Collector: Ok do you just want to do check by phone with me?

Caller: First I have to put the money together then I will let you know if I maybe mail you the three checks or I do it over the phone. Give me a few days and I'll call you back.

Collector: Ok very good sir not a problem.

Caller: What's your name?

Collector: Deyna Willson

Caller: Thank you very much have a lovely day.

Collector: You to.

Caller: Bye, bye.